



## Senate

General Assembly

**File No. 723**

January Session, 2011

Substitute Senate Bill No. 3

*Senate, May 3, 2011*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING A CRIMINAL HISTORY AND PATIENT ABUSE BACKGROUND SEARCH PROGRAM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-524 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2011*):

3 If, upon review, investigation or inspection pursuant to section 19a-  
4 498, the Commissioner of Public Health determines that a nursing  
5 home facility has violated any provision of section 17b-406, 19a-521 to  
6 19a-529, inclusive, as amended by this act, 19a-531 to 19a-551,  
7 inclusive, or 19a-553 to 19a-555, inclusive, section 19a-491a, 19a-491b,  
8 19a-493a or 19a-528a, section 3 of this act or any regulation in the  
9 Public Health Code or regulation relating to licensure or the Fire Safety  
10 Code relating to the operation or maintenance of a nursing home  
11 facility, which violation has been classified in accordance with section  
12 19a-527, [he] the commissioner shall immediately issue or cause to be  
13 issued a citation to the licensee of such nursing home facility.  
14 Governmental immunity shall not be a defense to any citation issued

15 or civil penalty imposed pursuant to sections 19a-524 to 19a-528,  
16 inclusive, as amended by this act. Each such citation shall be in  
17 writing, shall provide notice of the nature and scope of the alleged  
18 violation or violations and shall be sent by certified mail to the licensee  
19 at the address of the nursing home facility in issue. A copy of such  
20 citation shall also be sent to the licensed administrator at the address of  
21 the facility.

22 Sec. 2. Section 19a-527 of the general statutes is repealed and the  
23 following is substituted in lieu thereof (*Effective July 1, 2011*):

24 Citations issued pursuant to section 19a-524, as amended by this act,  
25 shall be classified according to the nature of the violation and shall  
26 state such classification and the amount of the civil penalty to be  
27 imposed on the face thereof. The Commissioner of Public Health shall,  
28 by regulation in accordance with chapter 54, classify violations as  
29 follows:

30 (a) Class A violations are conditions [which] that the Commissioner  
31 of Public Health determines present an immediate danger of death or  
32 serious harm to any patient in the nursing home facility. For each class  
33 A violation, a civil penalty of not more than five thousand dollars may  
34 be imposed;

35 (b) Class B violations are conditions [which] that the Commissioner  
36 of Public Health determines present a probability of death or serious  
37 harm in the reasonably foreseeable future to any patient in the nursing  
38 home facility, but [which he does not find] do not constitute a class A  
39 violation. For each [such] class B violation, a civil penalty of not more  
40 than three thousand dollars may be imposed;

41 (c) Class C violations are conditions that the Commissioner of Public  
42 Health determines constitute failure to comply with the provisions of  
43 section 3 of this act, but do not constitute a class A or class B violation.  
44 For each class C violation, a civil penalty of not more than one  
45 thousand dollars may be imposed.

46 Sec. 3. (NEW) (*Effective July 1, 2011*) (a) As used in this section:

47 (1) "Criminal history and patient abuse background search" or  
48 "background search" means (A) a review of the registry of nurse's  
49 aides maintained by the Department of Public Health pursuant to  
50 section 20-102bb of the general statutes, (B) checks of state and national  
51 criminal history records conducted in accordance with section 29-17a  
52 of the general statutes, and (C) a review of any other registry specified  
53 by the Department of Public Health which the department deems  
54 necessary for the administration of a background search program.

55 (2) "Direct access" means physical access to a patient or resident that  
56 affords an individual with the opportunity to commit abuse or neglect  
57 or to misappropriate the property of a patient or resident.

58 (3) "Direct services" means services provided to a patient or resident  
59 by an individual that provides such individual with the opportunity to  
60 commit abuse or neglect or to misappropriate the property of a patient  
61 or resident.

62 (4) "Disqualifying offense" means a conviction of any crime  
63 described in 42 USC 1320a-7(a)(1), (2) or (3) or a substantiated finding  
64 of neglect, abuse or misappropriation of property by a state or federal  
65 agency pursuant to an investigation conducted in accordance with  
66 42 USC 1395i-3(g)(1)(C) or 42 USC 1396r(g)(1)(C).

67 (5) "Long-term care facility" means a nursing home, as defined in  
68 section 19a-521 of the general statutes, a home health agency, as  
69 defined in section 19a-490 of the general statutes, a homemaker-  
70 companion agency, as defined in section 20-670 of the general statutes,  
71 an assisted living services agency, as defined in section 19a-490 of the  
72 general statutes, an intermediate care facility for the mentally retarded,  
73 as defined in 42 USC 1396d(d), a chronic disease hospital, as defined in  
74 section 19a-550 of the general statutes, or an agency providing hospice  
75 care which is licensed to provide such care by the Department of  
76 Public Health or certified to provide such care pursuant to 42 USC  
77 1395x.

78 (b) The Department of Public Health shall create and maintain a  
79 criminal history and patient abuse background search program in  
80 order to facilitate the performance, processing and analysis of the  
81 criminal history and patient abuse background search of individuals  
82 who have direct access or provide direct services to patients or  
83 residents through a long-term care facility.

84 (c) (1) Except as provided in subdivision (2) of this subsection, each  
85 long-term care facility, prior to extending an offer of employment to or  
86 entering into a contract for the provision of long-term care services  
87 with any individual who will have direct access or provide direct  
88 services to a patient or resident of the long-term care facility, shall  
89 require that such individual submit to a background search. The  
90 Department of Public Health shall prescribe the manner by which  
91 (A) long-term care facilities perform the review of (i) the registry of  
92 nurse's aides maintained by the department pursuant to section 20-  
93 102bb of the general statutes, and (ii) any other registry specified by  
94 the department, including requiring long-term care facilities to report  
95 the results of such review to the department, and (B) individuals  
96 submit to state and national criminal history records checks, including  
97 requiring the Department of Public Safety to report the results of such  
98 checks to the Department of Public Health.

99 (2) No long-term care facility shall be required to comply with the  
100 provisions of this section if the individual (A) provides evidence to the  
101 long-term care facility that such individual submitted to a background  
102 search conducted pursuant to subdivision (1) of this subsection not  
103 more than three years immediately preceding the date such individual  
104 applies for employment or seeks to enter into a contract with the long-  
105 term care facility and that the prior background search confirmed that  
106 the individual did not have a disqualifying offense, or (B) will be a  
107 volunteer with the long-term care facility, provided such individual  
108 will not have direct access or provide direct services to a patient or  
109 resident of the long-term care facility.

110 (d) (1) The Department of Public Health shall review all reports

111 provided to the department pursuant to subsection (c) of this section. If  
112 any such report contains evidence indicating that an individual has a  
113 disqualifying offense, the department shall mail written notice by  
114 certified mail, return receipt requested, to the individual informing the  
115 individual of the disqualifying offense and the opportunity to file a  
116 request for a waiver pursuant to subdivisions (2) and (3) of this  
117 subsection.

118 (2) An individual may file a written request for a waiver with the  
119 department not later than thirty days after the date the department  
120 mails notice to the individual pursuant to subdivision (1) of this  
121 subsection. The department shall mail a written determination  
122 indicating whether the department shall grant a waiver pursuant to  
123 subdivision (3) of this subsection not later than fifteen business days  
124 after the department receives the written request from the individual.  
125 The fifteen-business-day timeframe for the department to act on a  
126 request for a waiver shall not apply to any instance in which an  
127 individual challenges the accuracy of the information obtained from  
128 the background search.

129 (3) The department may grant a waiver from the provisions of  
130 subsection (e) of this section to an individual who identifies mitigating  
131 circumstances surrounding the disqualifying offense, including  
132 (A) inaccuracy in the information obtained from the background  
133 search, (B) lack of a relationship between the disqualifying offense and  
134 the position for which the individual has applied, (C) evidence that the  
135 individual has pursued or achieved rehabilitation with regard to the  
136 disqualifying offense, or (D) that substantial time has elapsed since  
137 committing the disqualifying offense. The department and its  
138 employees shall be immune from liability, civil or criminal, that might  
139 otherwise be incurred or imposed, for good faith conduct in granting  
140 waivers pursuant to this subdivision.

141 (4) After completing a review pursuant to subdivision (1) of this  
142 subsection, the department shall notify in writing the long-term care  
143 facility to which the individual has applied for employment or with

144 which the individual has applied to contract (A) of any disqualifying  
145 offense and any information the individual provided to the  
146 department regarding mitigating circumstances surrounding such  
147 offense, and (B) whether the department granted a waiver pursuant to  
148 subdivision (3) of this subsection.

149 (e) Notwithstanding the provisions of section 46a-80 of the general  
150 statutes, no long-term care facility shall employ an individual required  
151 to submit to a background search or contract with any such individual  
152 to provide long-term care services if the long-term care facility receives  
153 notice from the department that the individual has a disqualifying  
154 offense in the individual's background search and the department has  
155 not granted a waiver pursuant to subdivision (3) of subsection (d) of  
156 this section. A long-term care facility may, but is not obligated to,  
157 employ or enter into a contract with an individual who was granted a  
158 waiver pursuant to said subdivision (3).

159 (f) (1) Except as provided in subdivision (2) of this subsection, a  
160 long-term care facility shall not employ or enter into a contract with  
161 any individual required to submit to a background search until the  
162 long-term care facility receives notice from the Department of Public  
163 Health pursuant to subdivision (4) of subsection (d) of this section.

164 (2) A long-term care facility may employ or enter into a contract  
165 with an individual required to submit to a background search before  
166 the long-term care facility receives notice from the department that  
167 such individual does not have a disqualifying offense on a conditional  
168 basis, provided: (A) Employment on a conditional basis shall last not  
169 more than sixty days, (B) the long-term care facility has begun the  
170 review required under subsection (c) of this section and the individual  
171 has applied for checks pursuant to said subsection (c), (C) the  
172 individual is subject to direct, on-site supervision during the course of  
173 such conditional employment, and (D) the individual affirms in a  
174 signed statement that (i) the individual has not committed a  
175 disqualifying offense, and (ii) a disqualifying offense reported in the  
176 background search required by said subsection (c) shall constitute

177 good cause for termination and a long-term care facility may terminate  
178 the individual if a disqualifying offense is reported in said background  
179 search.

180 (g) Notwithstanding the provisions of subsection (c) of this section,  
181 the department may phase in implementation of the criminal history  
182 and patient abuse background search program by category of long-  
183 term care facility. For each category of long-term care facility  
184 implementation of the criminal history and patient abuse background  
185 search shall be on the date notice is published by the Commissioner of  
186 Public Health in the Connecticut Law Journal indicating that the  
187 commissioner is implementing the criminal history and patient abuse  
188 background search program for such category.

189 (h) The department shall adopt regulations, in accordance with the  
190 provisions of chapter 54 of the general statutes, to implement the  
191 provisions of this section.

192 Sec. 4. Section 20-678 of the general statutes is repealed and the  
193 following is substituted in lieu thereof (*Effective July 1, 2011*):

194 (a) Each homemaker-companion agency shall require that any  
195 employee of such agency hired on or after October 1, 2006, submit to a  
196 comprehensive background check. In addition, each homemaker-  
197 companion agency shall require that any employee of such agency  
198 hired on or after October 1, 2006, complete and sign a form which  
199 contains questions as to whether the current or prospective employee  
200 was convicted of a crime involving violence or dishonesty in a state  
201 court or federal court in any state; or was subject to any decision  
202 imposing disciplinary action by a licensing agency in any state, the  
203 District of Columbia, a United States possession or territory or a  
204 foreign jurisdiction. Any employee of a homemaker-companion  
205 agency hired on or after October 1, 2006, who makes a false written  
206 statement regarding such prior criminal convictions or disciplinary  
207 action shall be guilty of a class A misdemeanor.

208 (b) The provisions of this section shall cease to be effective on the

209 date the Commissioner of Public Health publishes notice in the  
 210 Connecticut Law Journal of the department's implementation of the  
 211 criminal history and patient abuse background search program for  
 212 homemaker-companion agencies in accordance with the provisions of  
 213 section 3 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	19a-524
Sec. 2	<i>July 1, 2011</i>	19a-527
Sec. 3	<i>July 1, 2011</i>	New section
Sec. 4	<i>July 1, 2011</i>	20-678

***Statement of Legislative Commissioners:***

In line 96, "a" was removed for grammatical consistency and in line 211, "program" was added for clarity and consistency.

<b><i>AGE</i></b>	<i>Joint Favorable Subst. C/R</i>	PH
<b><i>PH</i></b>	<i>Joint Favorable Subst. C/R</i>	JUD
<b><i>JUD</i></b>	<i>Joint Favorable Subst.-LCO</i>	



The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 12 \$</b>	<b>FY 13 \$</b>
Public Safety, Dept.	GF - Revenue Gain	None	779,063
Public Health, Dept.	GF - Potential Revenue Gain	Minimal	Minimal
Public Health, Dept.	GF - Potential Cost	None	60,000 to 200,911
Public Safety, Dept.	GF - Potential Cost	None	0 to 55,038
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Potential Cost	None	0 to 38,230

Note: GF=General Fund

**Municipal Impact:** None

### **Explanation**

The bill, which requires the Department of Public Health (DPH) to establish a program to ensure that individuals that would have direct access to patients or residents at long-term care facilities undergo criminal history background checks prior to employment, results in a potential minimal General Fund revenue gain to DPH, to the extent that it issues a citation for a Class C violation for failure to comply with the background check provisions under the bill and collects a civil penalty of not more than \$1,000.

The bill also results in a General Fund revenue gain of \$779,063 in FY 13 from the collection of criminal background check fees by the Department of Public Safety (DPS). It is assumed that DPH will reimburse DPS for each state and federal background check performed

<sup>1</sup> The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated non-pension fringe benefit cost associated with personnel changes is 23.76% of payroll in FY 12 and FY 13. In addition, there could be an impact to potential liability for the applicable state pension funds.

by charging the long-term facility that is seeking to employ an individual with direct access to patients/residents. The fee for a federal criminal background check is currently \$19.25 and the fee for a state criminal background check is \$50.00<sup>2</sup>.

An estimated 5,625 long-term care position applicants will require state and federal criminal background checks from 10/1/12 to the end of FY 13. It is anticipated that the cost of state and federal background checks for direct access employees of long-term care facilities and providers performed prior to 10/1/12 will be covered by DPH federal funds, as this is a requirement of a grant described later on.

The bill also results in one of three additional fiscal impacts under the following possible scenarios:

1. Scenario "A": Results in a cost to DPH of \$60,000 in FY 13 for Information Technology (IT) maintenance and customer support,
2. Scenario "B": Results in a total state cost of \$316,442 in FY 13 to support positions in DPH (at a cost of \$200,911), DPS (at a cost of \$55,038), and fringe benefits for those positions (\$60,493), or
3. Scenario "C": Both IT maintenance and customer support and agency position costs are incurred, but at an amount less than \$60,000 for IT maintenance and customer support and less than \$316,442 for agency positions.

Which scenario is likely to result will depend upon the outcome of a discretionary grant awarded to DPH from the Centers for Medicare and Medicaid Services for a "Connecticut Background Check Program for Direct Access Employees of Long-Term Care Facilities and Providers." Further information is provided in the following sections.

## **GRANT OVERVIEW**

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<sup>2</sup> DPS is given authority to set these fees under CGS Sec. 29-17a.

DPH was awarded \$1.9 million on 9/30/2010 under the aforementioned grant in order to, by 9/30/12, establish a background check program system that includes:

- Utilization of fingerprints to check existing state and federal criminal records of long-term care employment applicants, and
- A framework through which the system that will report back to the users (the long-term care facilities/providers) if their employees, who have previously had a background check and were determined fit for hire, subsequently get arrested for an offense that would alter their fitness determination, according to a set criteria.

To date, this system has not been developed. It is unknown whether this system will be implemented by DPH before the grant terminates, or, if it is implemented, how comprehensive this system will be.

## **FISCAL IMPACT SCENARIOS**

### **Scenario "A"**

Should a criminal background check IT system funded under the Connecticut Background Check Program for Direct Access Employees of Long-Term Care Facilities and Providers grant be established and fully operational by 9/30/12, DPH would incur a cost of \$60,000 in FY 13, starting 10/1/12, to fund on-going IT maintenance and customer service support.

### **Scenario "B"**

Should a criminal background check IT system not be established by 9/30/12, starting 10/1/12, DPH will incur costs of \$200,911 for 2.5 positions and associated expenses. DPS will incur costs of \$55,038 for 1.5 positions and associated expenses. There will also be fringe benefit costs of \$60,493 to support these positions. The positions will be needed to process the estimated 15,000 annual criminal background checks (7,500 state and 7,500 federal) required under the bill. Costs are

detailed in the table below. It should be noted that these costs are for nine months of the fiscal year, as federal funds support a DPH background check initiative through 9/30/12.

Item	FY 13 \$
DPH	
1.0 Health Program Supervisor	57,951
1.0 Health Program Associate	48,138
3.0 Office Assistants	93,697
Office supplies	1,125
<i>DPH TOTAL</i>	<i>200,911</i>
DPS	
1.5 Processing Technicians	54,813
Office Supplies	225
<i>DPS TOTAL</i>	<i>55,038</i>
Office of the State Comptroller	
Fringe Benefits	60,493
<b>TOTAL STATE COST</b>	<b>316,442</b>

### Scenario "C"

Should a partial criminal background check IT system be implemented, it is anticipated that less staff support would be needed to the extent that the system facilitates processing tasks that would otherwise be performed by staff. A partially implemented criminal background check IT system would result in costs to DPH for maintenance and customer support, anticipated to be less than the \$60,000 cost for a fully implemented system for nine months in FY 13.

### The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the outcome of the DPH grant from the Centers for Medicare and Medicaid Services. Pension-related costs for the identified potential personnel changes will be recognized in the state's annual required pension contribution as of FY 14.

**OLR Bill Analysis****sSB 3*****AN ACT CONCERNING A CRIMINAL HISTORY AND PATIENT ABUSE BACKGROUND SEARCH PROGRAM.*****SUMMARY:**

This bill requires long-term care facilities to ensure that people who will have direct access, or provide direct service, to patients or residents undergo criminal history and patient abuse background searches (background search) before offering employment to or contracting with them to provide long-term care services. It requires the Public Health Department (DPH) to establish a program to facilitate the searches, receive criminal history record check results from the Department of Public Safety (DPS), and notify facilities of people with disqualifying offenses.

The bill prohibits the facilities from employing or contracting with people to provide long-term care services to patients or residents:

1. before receiving the DPH notice of the background search results, except that they may offer conditional employment for up to 60 days based on specified criteria or
2. if a search reveals disqualifying offenses, unless DPH grants a waiver.

The bill also allows the facilities to enter into a contract on a conditional basis before receiving the notification of the search results, but it does not specify the length of any such contract.

The bill makes failure to comply with the criminal history and patient abuse background search provisions a Class C violation, which carries a civil penalty of up to \$1,000.

It requires DPH to adopt implementing regulations. It also makes technical changes.

EFFECTIVE DATE: July 1, 2011

***Criminal History Record and Background Check Requirement***

With one exception, before offering a job to or contracting for long-term care services with anyone who will have direct access or provide direct services to a patient or resident of the facility, a long-term care facility must require the person to submit to a background search.

The facility does not have to require a search if the person:

1. provides evidence that a background search no more than three years immediately preceding the date of applying for the job or seeking the contract with the facility revealed no disqualifying offense or
2. will be a volunteer at the facility and will not have direct access or provide direct services to a patient or resident.

The bill defines “criminal history and patient abuse background search” or “background search” as (1) state and national criminal history record checks conducted in accordance with state law, (2) a review of DPH’s nurse’s aide registry, and (3) a review of any other registry that DPH specifies and deems necessary for administering a background search program.

***Criminal History and Patient Abuse Background Search Program***

The bill requires DPH to create and maintain a criminal history and patient abuse background search program to facilitate the performance, processing, and analysis of background searches on people who have direct access or provide direct services to patients or residents of long-term care facilities.

The bill defines a “long-term care facility,” as a home health agency, a homemaker-companion agency, an assisted living services agency, an intermediate care facility for the mentally retarded as defined in

federal law, a chronic disease hospital, a DPH-licensed or federally certified agency providing hospice care, or a nursing home as defined in state law. (State law does not define nursing home, but it defines a “nursing home facility” as a nursing home or residential care home.)

“Direct access” means physical access to a patient or resident and “direct services” means services provided to a patient or resident, which access or service gives the provider an opportunity to commit abuse or neglect or misappropriate the patient’s or resident’s property.

DPH must prescribe how (1) a facility must review the registries, including requiring the facility to report the review results to DPH, and (2) individuals must submit to state and national criminal history record checks, including requiring DPS to report the results of such checks to DPH.

### ***Disqualifying Offenses and Waivers***

DPH must review the criminal history record reports that DPS provides and the results of the registry reviews provided by the facilities. If a report shows that an individual has a disqualifying offense, DPH must notify him or her by certified mail, return receipt requested, of the disqualifying offense and the opportunity to file a written request for a waiver, which would allow him or her to be employed by or enter into contract with a long-term care facility.

The bill defines a “disqualifying offense” as a (1) substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency under an investigation conducted in accordance with federal Medicare and Medicaid laws or (2) conviction for certain federal crimes.

The federal crimes are:

1. patient neglect or abuse in connection with the delivery of a health care item or service;
2. a crime related to the delivery of an item or service pertaining to

the Medicare program or any state health care program receiving certain federal funds (e.g., Medicaid); or

3. any felony conviction relating to health care fraud committed after August 21, 1996.

***Waivers***

An individual has up to 30 days after DPH mails a notice to file a waiver request. DPH has up to 15 business days after receiving the request to mail a written determination indicating whether it will grant the request. The 15-day deadline does not apply to instances in which an individual challenges the accuracy of the information obtained from the background search. DPH may grant a waiver to an individual who identifies mitigating circumstances surrounding the disqualifying offense, including:

1. inaccuracy in the information obtained,
2. lack of a relationship between the disqualifying offense and the position for which the individual has applied,
3. evidence that the individual has pursued or achieved rehabilitation with regard to the disqualifying offense, or
4. that substantial time has elapsed since committing the disqualifying offense.

DPH and its employees are immune from civil or criminal liability that might otherwise be incurred or imposed for good faith conduct in granting waivers.

***Notification of Facility***

After DPH reviews the background check and patient abuse reports, it must notify, in writing, the long-term care facility to which the individual applied to get a job or a contract whether (1) the report contains any disqualifying offense, (2) the individual provided any information about mitigating circumstances surrounding the offense, and (3) DPH granted a waiver.



If DPH notifies a facility that a person covered by the bill has a disqualifying offense and has not received a DPH waiver, the facility cannot employ or contract with him or her. And if DPH grants a waiver, the bill allows but does not require a facility to employ or enter into a contract with an individual granted a waiver. The provisions apply notwithstanding state law that generally forbids the state and its agencies (except for law enforcement agencies) from denying felons employment, occupational licenses, or permission to engage in state-regulated professions without examining (1) the relationship between the crime committed and the job or license that the person is being considered for, (2) the convicted person's degree of rehabilitation, and (3) the time elapsed since conviction or release (CGS § 46a-80).

The bill prohibits a facility from hiring or entering into a contract with an individual required to undergo a background search until it receives the DPH notification. But the facility may employ or enter into a contract on a conditional basis with such an individual before it receives DPH notification if:

1. conditional employment does not last for more 60 days;
2. the facility has begun the required review and the individual has applied for the required checks;
3. the individual is subject to direct, on-site supervision; and
4. the individual affirms in a signed statement that (a) he or she has not committed a disqualifying offense and (b) a disqualifying offense reported in the background search constitutes good cause for termination and a facility may terminate the individual on this ground.

(It is unclear how long the contracts could last because the conditions specified above appear to apply to employment only.)

### ***Program Implementation***

DPH may phase in implementation of the criminal history and

patient abuse background search program by type of long-term care facility. For each category, implementation must be on the date the DPS commissioner publishes notice in the *Connecticut Law Journal* indicating that he is implementing the program for the facility type.

**Homemaker-Companion Agency Background Check.** By law, homemaker-companion agencies must require their employees to submit to a comprehensive background check. The bill replaces the requirement on the date DPH publishes notice in the *Connecticut Law Journal* of its implementation of the criminal history and patient abuse background search program for homemaker-companion agencies.

### **Citations for Violations of Nursing Home Laws**

By law, the DPH commissioner must issue a citation against any nursing home that violates a statute or regulation relating to nursing home operation or maintenance. There are two types of citations, which are based on the nature of the violation.

Class A violations are those that present an immediate danger of death or serious harm to any patient in a nursing home, and carry an automatic penalty of not less than \$3,000 per day. Class B violations present a probability of death or serious harm to a patient in the reasonably foreseeable future. If not corrected within 15 days of the final order, class B violations carry a penalty of \$1,000 to \$3,000 per day.

The bill establishes class C violations, which are conditions that the DPH commissioner determines constitute a failure to comply with the bill's background check provisions, but are not class A or B violations. Class C violations carry a civil penalty of up to \$1,000.

### **COMMITTEE ACTION**

Aging Committee

Joint Favorable Substitute Change of Reference  
Yea 11 Nay 0 (03/10/2011)

Public Health Committee

Joint Favorable Substitute Change of Reference  
Yea 28 Nay 0 (03/28/2011)

Judiciary Committee

Joint Favorable  
Yea 42 Nay 0 (04/14/2011)